

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K STREET, NW, SUITE 300

WASHINGTON, DC 20007-5116

TELEPHONE (202) 424-7500

FACSIMILE (202) 424-7645

WWW.SWIDLAW.COM

HARRY N. MALONE III  
DIRECT DIAL (202) 424-7705  
HNMALONE@SWIDLAW.COM

NEW YORK OFFICE  
405 LEXINGTON AVENUE  
NEW YORK, NY 10174  
(212) 758-9500 FAX (212) 758-9526

October 13, 2004

**EX PARTE**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W., TW-A325  
Washington, D.C. 20554

Re: Unbundled Access to Network Elements; WC Docket No. 04-313

Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; CC Docket No. 01-338

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(2) of the Commission Rules, this letter is to provide notice in the above-captioned proceedings of an ex parte meeting. On October 12, 2004, Patrick Eudy and Jim Bellina, of Dialog Telecommunications, Inc., and myself met with the following staff of the Wireline Competition Bureau:

Jeremy Miller  
Russell Hanser  
Christina Langlois  
Erin Boone

Chris Conte  
Marcus Maher  
Cathy Zimm

At the meeting we discussed the necessity of preserving unbundled local switching in certain markets, in accordance with the attached presentation. We also discussed the timeline of migrating a UNE-P based service to UNE-L. A copy of that timeline is also attached.

Pursuant to the Commission's rules, this letter is being filed electronically in the above captioned dockets.

Sincerely,  
/Harry N. Malone/  
Harry N. Malone  
Counsel to Dialog Telecommunications, Inc.

Enclosure

cc: FCC attendees  
Patrick Eudy, Dialog  
Jim Bellina, Dialog

# *Service and Innovation for Rural Telephone Consumers*

Presented to the  
Wireline Competition Bureau of the  
Federal Communications Commission

October 12, 2004

## Key Questions

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- Why is competition in rural America important?
- What is the state of competition in rural America?
- How can a robust, innovative and competitive telecommunications market be developed in rural America?

## About Dialog

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- Privately owned
- Serve 10,000 customers in rural Kentucky, 85% residential
- Our basic product is \$35 per month, bottom line
- Approximately 10% of our customers did not have telephone service
- Positive cash flow since August 2002
- We deliver real value to our customers
  - Savings
  - Superior customer service
  - Simple plans, no fine print, no hidden charges
- Built our business with a plan to own facilities
  - 89% of lines in nine central offices
  - Regulatory uncertainty is holding us back
- As we transition to facilities, we will be driving investment and innovation in markets that are overlooked by the telephone and cable incumbents
  - First to offer residential unlimited plan in January 2002

## Rural America presents unique barriers to the development of competition.

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- Market characteristics present unique challenges for incumbents and competitors
  - Lower household incomes, population density, internet adoption
  - Higher proportion of elderly, fixed income consumers
  - Higher proportion of residential lines
- Implications for new entrants
  - Longer time to achieve critical mass
  - Fewer customers per collocation
  - Higher cost per customer
  - Less revenue per customer (retail rates, no DSL)
  - No cross-subsidy with business rates
  - Greater cutover cost and complexity
- In the case of CLECs, the solution is not subsidies. It is to recognize the unique differences of these markets and provide additional time for carriers to reach the scale required to operate profitably with facilities.

## Benefits of Competition in Rural America

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- Rural America cannot be denied the benefits of competition for telephone services
  - Economic savings
  - Innovative services
  - Superior customer service
  - Community investment
- The investment of large telephone, cable and cellular companies is skewed toward larger markets
- Choice is important to the consumers in these markets
  - 11% penetration
  - Currently adding 1,000 lines per month
- Competition developed late, few alternatives today

## Minimum entry prices must be considered when evaluating intermodal competition

- Intermodal competition is not viable for many consumers
  - Cable VoIP: \$75+ per month minimum (where available)
  - Cellular: \$25+++ for 100 minutes

		HAI Model Release FCC - Expense Module	Carrier Website or via call to cust svc						2000 Census	Carrier Website or via call to cust svc	Primary Research	Primary Research
RC Name	Dialog lines	Total residential lines	Cable Company	Cable VoIP available	Cable broadband available	DSL available	DSL available without local phone service	County Population Density per sq mile	Dominant Wireless Carrier	Lowest Advertised Cellular Price	Network Based Residential Competitors	UNE-P based Residential Competitors
PADUCAH	2,295	15,813	Comcast	No	\$45.95 incl modem	Yes	No	261	Verizon	\$24.99 +++ (b)	No	Yes
PADUCAH	1,745	7,881	Comcast	No	\$45.95 incl modem	Yes	No	261	Verizon	\$24.99 +++ (b)	No	Yes
SYMSONIA	1,423	5,135	Mediacom	No	No	Yes	No	261	Verizon	\$24.99 +++ (b)	No	Yes
MAYFIELD	1,296	6,898	Charter Comm.	No	\$44.99 for 384kb, \$54.99 for 3mb incl modem	Yes	No	67	Verizon	\$24.99 +++ (b)	No	Yes
PIKEVILLE	783	8,344	Cebridge	No	No	Yes	No	87	Cingular	\$29.95 +++ (a)	No	Yes
MURRAY	555	9,641	Charter Comm.	No	\$44.99 for 384kb, \$54.99 for 3mb incl modem	Yes	No	89	Verizon	\$24.99 +++ (b)	Yes	Yes
CENTRAL CY	433	3,425	Comcast	No	No	Yes	No	67	Cingular	\$29.95 +++ (a)	No	Yes
MADISONVL	423	10,661	Charter Comm.	No	\$44.99 for 384kb, \$54.99 for 3mb incl modem	Yes	No	85	Verizon	\$24.99 +++ (b)	No	Yes
PADUCAH	124	546	Comcast	No	\$45.95 incl modem	Yes	No	261	Verizon	\$24.99 +++ (b)	No	Yes

Competition has driven innovation. To continue to be successful, we need:

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- Temporary access to switching
  - Competition for residential customers in rural markets is still developing and will not mature without access to unbundled switching
  - Additional time is needed for competition to develop in these areas and achieve the scale required to build facilities
- Permanent access to monopoly facilities
  - Facilities-based competition in rural markets requires access to collocation, loops and transport at cost-based rates
- Access to capital
- A transition from UNE-P that actually allows us to transition our customers



## Special Considerations for Small Businesses

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- Dialog is nearing critical mass to economically operate a network
- Absent the current proceedings, we would be building collocation facilities right now
- The current regulatory uncertainty has made it impossible for us to raise money to fund this buildout.
- This is a problem unique to small businesses operating in our industry. Investors are avoiding this sector, and especially small businesses in the sector, due to the uncertainty created by actions of the Court and the Commission. A firm with our cash flow, operating in another industry, could finance the capital investment (\$1.2 million capex, or approximately 2.0x EBITDA).
- After the rules are stable, we need at least six months to raise capital and another 30 months to build all our collocations.

## Our Proposal

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- **Unbundled switching:**
  - Competitors impaired without access to switching in rural COs
  - Fewer than 25,000 residential DSOs where fewer than 8,000 residential DSOs are served by all competitors
  - Current TELRIC pricing for existing and new customers
  - After the threshold is reached, a 24-month transition to state commission-approved market rates affected by an equal rate increase every six months
- **For small businesses**
  - Unbundled switching should be available for all of the small carrier's customers
  - Available for three years from the effective date of the new unbundling rules
  - Current TELRIC pricing for existing and new customers

[illegible]